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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
09/070,920	05/04/98	YAMADA	A 37B.P48

005514

MM42/0310

FITZPATRICK CELLA HARPER & SCINTO  
30 ROCKEFELLER PLAZA  
NEW YORK NY 10112

EXAMINER

STEWART JR, C

ART UNIT

PAPER NUMBER

2853

DATE MAILED:

03/10/00

**Please find below and/or attached an Office communication concerning this application or proceeding.**

**Commissioner of Patents and Trademarks**

<b>Office Action Summary</b>	Application No. <b>09/070,920</b>	Applicant(s) <b>Akitoshi Yamada, et al</b>
	Examiner <b>Charles W. Stewart Jr.</b>	Group Art Unit <b>2853</b>

Responsive to communication(s) filed on Dec 27, 1999.

This action is **FINAL**.

Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 3 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

#### Disposition of Claims

Claim(s) 1-18 is/are pending in the application.

Of the above, claim(s) 19-93 is/are withdrawn from consideration.

Claim(s) \_\_\_\_\_ is/are allowed.

Claim(s) 1-18 is/are rejected.

Claim(s) \_\_\_\_\_ is/are objected to.

Claims \_\_\_\_\_ are subject to restriction or election requirement.

#### Application Papers

See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.

The proposed drawing correction, filed on \_\_\_\_\_ is  approved  disapproved.

The specification is objected to by the Examiner.

The oath or declaration is objected to by the Examiner.

#### Priority under 35 U.S.C. § 119

Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

All  Some\*  None of the CERTIFIED copies of the priority documents have been

received.

received in Application No. (Series Code/Serial Number) \_\_\_\_\_.

received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\*Certified copies not received: \_\_\_\_\_.

Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

#### Attachment(s)

Notice of References Cited, PTO-892

Information Disclosure Statement(s), PTO-1449, Paper No(s). \_\_\_\_\_

Interview Summary, PTO-413

Notice of Draftsperson's Patent Drawing Review, PTO-948

Notice of Informal Patent Application, PTO-152

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

Art Unit: 2853

***Election/Restriction***

1. Applicant's election with traverse of Group I, claims 1-18 in Paper No. 9 is acknowledged. The traversal is on the ground(s) that the case is not a burdensome search. This is not found persuasive because the Applicants have admitted that claims of Groups I-IV are directed toward different statutory classifications, i.e., distinct inventions, and thus that is why the Examiner gave the restriction.

The requirement is still deemed proper and is therefore made FINAL.

2. Claims 19-93 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected invention, there being no allowable generic or linking claim. Applicants timely traversed the restriction (election) requirement in Paper No. 9.

***Specification***

3. The specification is objected to under CFR 1.17(b) (a) as failing to set forth the precise invention for which a patent is solicited in such a manner as to distinguish it from other inventions (the mentioned capping mechanism also protects the print head from damage when servicing the printer) and from what is old (Midorkawa 5,097,276) in concise terms.

***Drawings***

3. Figures 1, 2, 3, 4, 5, 6, 7 and 8 should be designated by a legend such as --Prior Art-- because only that which is old is illustrated. See MPEP §608.02(g).

***Claim Rejections - 35 USC § 112***

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4. Claims 5-6, 9, 15-16 and 18 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 5, the expression "to be ejected" is futuristic and therefore does not set forth a proper limitation.

In claim 9, the language of ejected "at a frequency lower than a frequency used for printing" is ambiguous, there appears to be no clear frequency used for printing.

***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) a patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tsugita U.S.P. 4,664,542 in view of Midorikawa U.S.P. 5,097,276. As best construed, Tsugita discloses (figure 1) a method of controlling a print operation of an ink jet printer 10, determining a print head temperature. Tsugita discloses cooling 84 a print head using a predetermined method; and capping the print head 64a after the print head is cooled, printing an image using a print head 64a and cooling 84 the print head S705 after the end S702 of the print operation using a predetermined method. Tsugita discloses wherein the cooling 84 step causes ink droplets to be ejected from the print head 64a wherein the ink droplets are ejected at a frequency lower 92 than a frequency used for printing whereby obtaining a parameter corresponding to a print head

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temperature when the ink jet printer is down and performing a predetermined process based on the parameter wherein the predetermined process comprises purging ink from the print head. Tusgita does not disclose controlling a capping sequences based on the determined print head temperature. It would have been obvious to one having ordinary skill in the ink jet art to modify the temperature control device for a print head of Tsugita with the ink jet head capping device (figures 1-4 and col. 4, lines 56-63) of Midorikawa, in order to cool the ink jet print head before capping.

***Contact Information***

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Examiner Charles W. Stewart, Jr. whose telephone number is (703) 308-7252. The examiner can normally be reached on Monday-Friday from 8:30 a.m to 5:00 p.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John E. Barlow, Jr. Art Unit 2853, can be reached on (703) 308-3126. The fax phone number for the organization where this application or proceeding is assigned is (703) 305-3432.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0956.

cws 

March 3, 2000



N. Le  
Supervisory Patent Examiner  
Technology Center 2800